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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/790,318	06/01/2004	Michael F. Oyaski	MFO 04060	9279

7590 05/07/2007  
JAMES RAY & ASSOCIATES  
2640 PITCAIRN ROAD  
MONROEVILLE, PA 15146

EXAMINER
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BOGART, MICHAEL G

ART UNIT	PAPER NUMBER
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3761

MAIL DATE	DELIVERY MODE
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05/07/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

Application No.

10/790,318

Applicant(s)

OYASKI, MICHAEL F.

Examiner

Michael G. Bogart

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 06 February 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) 1-13 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 14-23 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 June 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

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## DETAILED ACTION

### *Claim Rejections – 35 USC § 103*

The following is a quotation of 35 U.S.C. § 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 14-23 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Eriksson (US 5,152,757 A) in view of Lockwood *et al.* (US 6,685,681 B2; hereinafter “Lockwood”).

Regarding claim 14, Eriksson teaches a device capable of both treating and promoting healing of damaged body tissue, said device comprising;

a bodysuit member (60) having each of a predetermined size and a predetermined shape, said bodysuit (60) having an outer surface facing atmosphere and an inner surface facing a body area of a person to be treated; and

at least one fluid transfer means (88) sealingly engaged with said bodysuit space and disposed in fluid communication with a space located between said inner surface of said bodysuit and said damaged body tissue for allowing communication of at least one predetermined fluid medium to such space disposed between said inner surface of said bodysuit and such damaged body tissue thereby enabling such damaged body tissue (see figs. 9 & 15, below)(col. 20, lines 62-65; col. 21; lines 51-68)(abstract).

Eriksson does not expressly teach that the inner surface of the bodysuit member is textured.

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Lockwood teaches a vacuum bandage that includes a wound-contacting layer (20) with a texture (28) which channels fluids (see fig. 16, below).

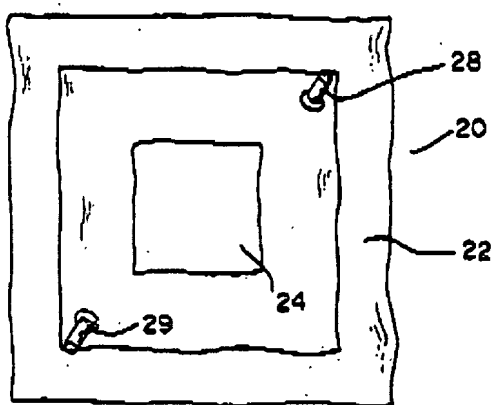
At the time of the invention, it would have been obvious to one of ordinary skill in the art to add the textured channels of Lockwood to the system of Eriksson in order to provide fluid flow channels even in portions of the system that are compressed by a wearer's bodyweight, so fluid can circulate.

Regarding claim 15, Eriksson teaches transparency (col. 2, line 34).

Regarding claim 16-18, Eriksson teaches multiple ports (88)(fig. 15).

Regarding claims 19-22, Eriksson teaches that the fluid is a liquid medication, painkiller or both (col. 6, lines 55-68).

Regarding claim 23, Eriksson teaches a bodysuit member (60) that covers an entire body, see figure 15, infra.



**FIGURE 9**

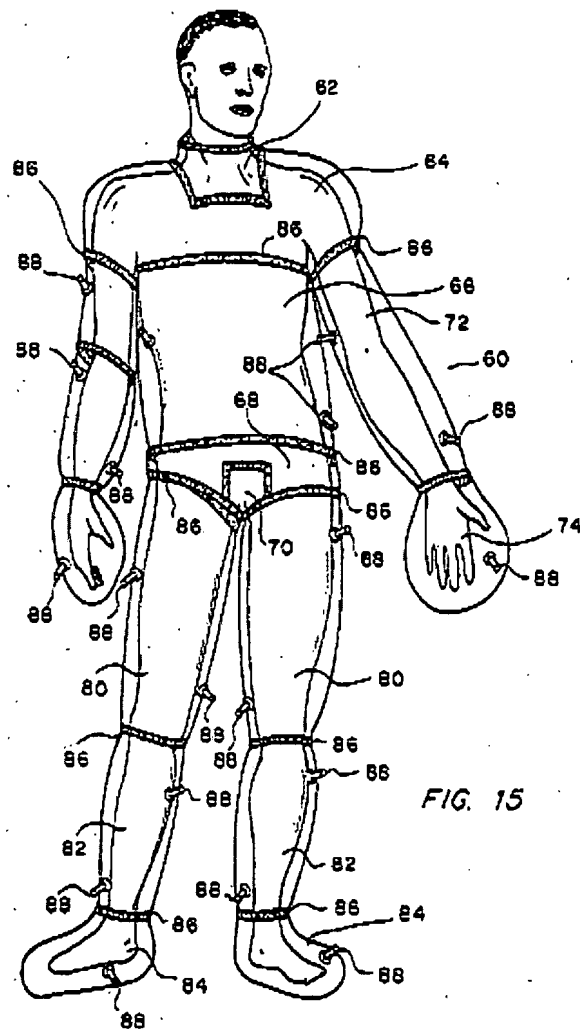
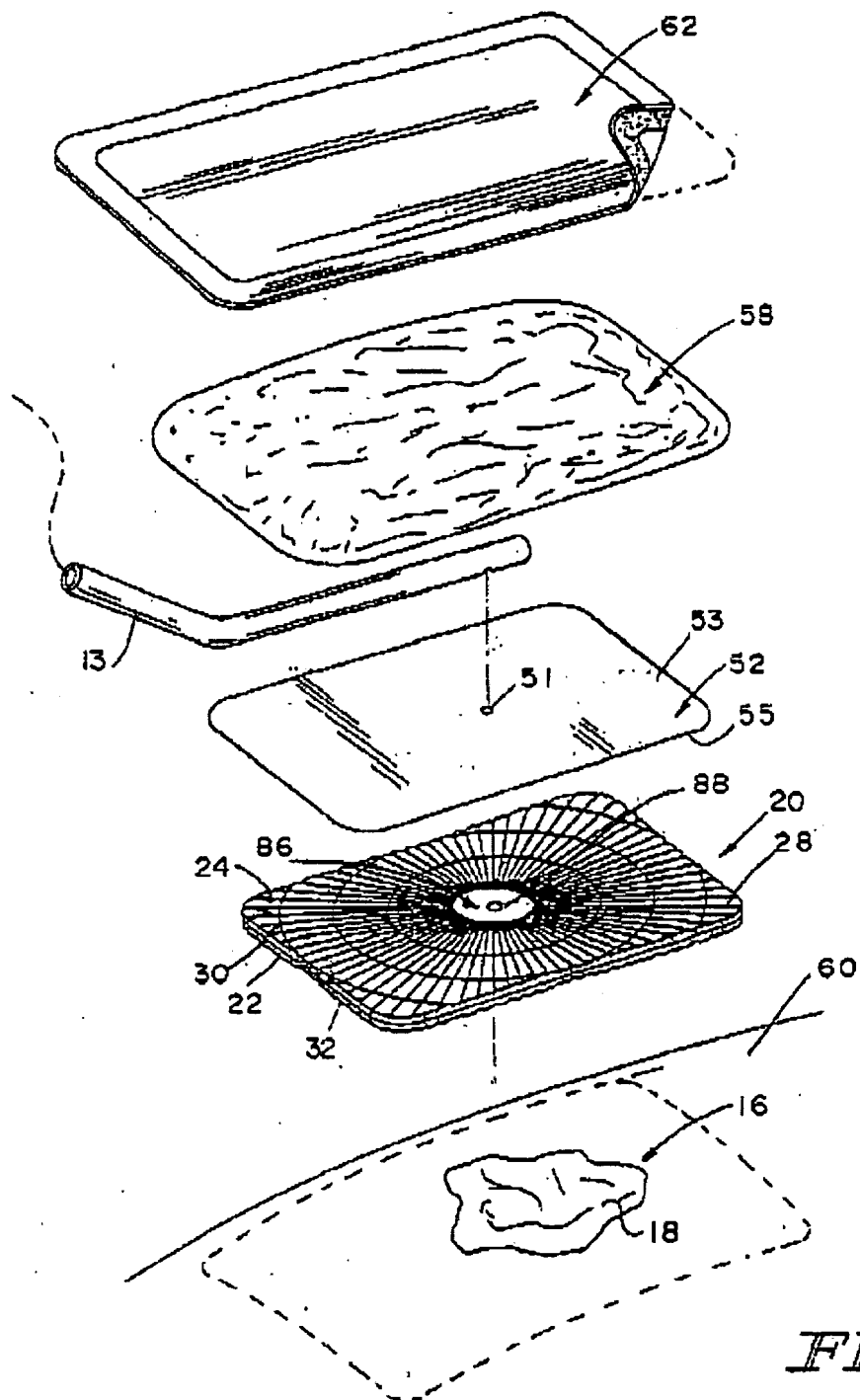


FIG. 15



*FIG 16*

***Response to Arguments***

Applicant's arguments filed 06 February 2007 have been fully considered but they are not persuasive.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., Lockwood's channels are not a texture which would provide sufficient circulation to the affected areas of a person's body) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

The term "sufficient" in applicant's remarks is a relative term. The term "sufficient" is not defined by the claim and the specification does not provide a standard for ascertaining the requisite degree. Furthermore, Lockwood teaches that the channels (28) are at least sufficient to allow fluids to evenly flow over a wound (col. 5, lines 11-28).

Regarding claim 23, applicants assert that the bodysuit member covering the entire body is clearly not taught in the references. This argument is not persuasive because Eriksson teaches a bodysuit (60) that covers an entire body (col. 21, lines 52-59)(see figure 15, supra).

***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO

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MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Bogart whose telephone number is (571) 272-4933.

In the event the examiner is not available, the Examiner's supervisor, Tatyana Zalukaeva may be reached at phone number (571) 272-1115. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300 for formal communications. For informal communications, the direct fax to the Examiner is (571) 273-4933.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-3700.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Michael Bogart  
26 April 2007

TATYANA ZALUKAEVA  
SUPERVISORY PRIMARY EXAMINER

